

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

John Hawkins and HawkLaw, PA,

Plaintiffs,

vs.

The South Carolina Commission on
Lawyer Conduct, The South Carolina Office of
Disciplinary Counsel,

Defendants.

Civil Action No. 3:21-cv-01319-JMC

**DEFENDANTS' DISCOVERY PLAN
PURSUANT TO FED. R. CIV. P. 26(f)**

I. FEDERAL RULES OF CIVIL PROCEDURE RULE 26(f) CONFERENCE

Pursuant to Fed. R. Civ. P. 26(f), a telephonic meeting was held between the parties on July 8, 2021, and was attended by Robert D. Dodson, counsel for Plaintiffs, John Hawkins and HawkLaw, PA ("Plaintiffs"), and Sara Svedberg, counsel for Defendants, The South Carolina Commission on Lawyer Conduct and The South Carolina Office of Disciplinary Counsel ("Defendants"). Counsel for Defendants certify that they have discussed the availability of mediation with the Defendants. Counsel also take note of the Mediation Order entered in this matter on June 22, 2021. (Dkt. No. 20). In accordance with Fed. R. Civ. P. 26(f), Defendants submit this discovery report and plan as follows:

I. FED. R. CIV. P. 26(f) DISCOVERY PLAN

- (A) **[Responding to Fed. R. Civ. P. 26(f)(3)(A)]: What changes should be made in the timing, form, or requirement for disclosures under Rule 26(a), including a statement as to when disclosures under Rule 26(a)(1) were made or will be made?**

The parties have agreed to exchange disclosures under Rule 26(a)(1) by August 2, 2021.

- (B) [Fed. R. Civ. P. 26(f)(3)(B)]: The subjects on which discovery may be needed, when discovery should be completed, and whether discovery should be conducted in phases or be limited to or focused upon particular issues.**

The parties have agreed generally that discovery should be had on all matters set forth in Plaintiffs' Complaint and Defendants' Answer, or amendments thereto. Defendants propose that discovery proceed as set forth in the proposed Amended Scheduling Order submitted with Defendants' Rule 26(f) Report.

- (C) [Fed. R. Civ. P. 26(f)(3)(C)]: Any issues about disclosure or discovery of electronically stored information, including the form or forms in which it should be produced.**

Defendants anticipate that electronically stored documents might be produced either in hard copy or in an image format (such as .pdf or .tif). After the initial production is complete, Defendants propose that a party desiring ESI in native file format must demonstrate a need consistent with Fed. R. Civ. P. 26(b) for such production. In the event that ESI is not reasonably accessible, Defendants propose that the parties will work together to evaluate alternative means of production.

- (D) [Fed. R. Civ. P. 26(f)(3)(D)]: Any issues about claims of privilege or of protection as trial-preparation materials, including – if the Parties agree on a procedure to assert these claims after production – whether to ask the court to include their agreement in an order.**

Defendants anticipate that claims of privilege and work product protection will be made prior to production (i.e., documents covered by the attorney client privilege or work product doctrine will not be produced), but reserve all rights to “claw back” any inadvertently produced privileged documents pursuant to Rule 502(b), Fed. R. Evid.

- (E) [Fed. R. Civ. P. 26(f)(3)(E)]: What changes should be made in the limitations on discovery imposed under these rules or by local rule, and what other limitations should be imposed.**

Defendants do not at this time anticipate the need for changes to the existing limitations on

discovery or the imposition of additional limitations, beyond the changes to the schedule set forth in the proposed Amended Scheduling Order submitted with Defendants' Rule 26(f) Report.

(F) Fed. R. Civ. P. 26(f)(3)(F)]: Any other orders that the court should issue under Rule 26(c) or under Rule 16(b) and (c).

None.

/s/ Angus H. Macaulay

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Columbia, South Carolina
July 26, 2021